

Council moves to undo historic designation of Damascus house

Public hearing scheduled for Nov. 23

by Susan Singer-Bart | Staff Writer

The Montgomery County Council is poised to correct a historic mistake.

Councilman Michael J. Knapp (D-Dist. 2) of Germantown has introduced an amendment to the historic preservation ordinance that will allow the county to undo the unintended historic designation of Jonathan and Melanie Green's Depression-era Damascus house.

"On the list of things Mike is cleaning off his desk, this is another one, and an important one," Knapp said at the start of the council's Planning, Housing and Economic Development Committee work session Thursday.

Knapp did not seek re-election. He expects the council to approve the amendment once they understand it is just an attempt to fix a mistake.

The amendment will allow the council to change the designation of a property on the county's Master Plan of Historic Preservation within four years of the master plan adoption if the property owner can show that he or she was not notified in advance that the property was being considered for designation. This would apply only if the Montgomery County Planning Board recommended the house as part of a historic district but it was not recommended for designation as an individual site and the property owner was not given notice that it might be designated as an individual site.

Since the Greens' situation came to light, the Historic Preservation Commission has started notifying all property owners within a potential historic district that their properties could be considered for individual designation, Historic Preservation Commission supervisor Scot Whipple told the committee.

"This allows you to reconsider something where the council did something different from the Planning Board," said Jeff Zyontz, a council legislative attorney.

The council must have a rational basis to change its action, but no specific criteria will be applied, according he said.

Under existing law, a change can only be made through a master plan amendment, which is a lengthy process. Planning Board Chairwoman Francoise Carrier told Knapp his amendment is the best way to resolve the Greens' problem.

"This legislation is the solution all parties have come to agree would be the best way to resolve the situation," Green's lawyer Soo Lee-Cho of Miller, Miller & Canby Chartered of Rockville told the work session.

When the council created the Woodfield Historic District in January 2009, it unintentionally designated the Green's house as a historic property.

Woodfield is the only place where this problem has occurred in the last four years, Zyontz said; however, a similar situation could occur as the council looks at designating the Greenwich Forest neighborhood in Bethesda, Knapp said.

In drawing the boundary for the Woodfield district, the Planning, Housing and Economic Development Committee removed some of Green's neighbors from the district at their request. That created a district with chunks of exempted properties. As a standalone parcel, the Greens' house automatically became historic.

The council was unaware of the consequences of its action, Knapp said.

The county customarily declares properties historic after historic preservation staff research, notification to the property owner and public hearings. In the Greens' case, the council decided without any notification or research.

Historic Preservation staff was in the room when the council made the decision but did not point out the problem to the council, Whipple said. He could not recall another instance of a property receiving historic designation without a full investigation.

Council President Nancy M. Floreen (D-At large) of Garrett Park asked Whipple how this happened.

"That question was never asked," he said.

"Note to self — ask," she said.

Historic Preservation staff and council staff have spoken to Jonathan Green since February or March 2009, when he became aware of the County Council's decision, and agree there is nothing historic about the house.

"We apologize," Floreen said to Green.

A public hearing on Nov. 23 will be followed by a council vote the next week. If the council approves the amendment, it will take effect 20 days later. The Greens will have to ask the next council to remove their house from the historic registry after the new session begins in December.

"It does concern us this could get dropped by another council," Lee-Cho said.

The Greens just want their situation straightened out. They do not plan to take legal action the county.